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## The Legal Needs of Farmers: An Analysis of the Family Farm Legal Needs Survey

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## THE LEGAL NEEDS OF FARMERS: AN ANALYSIS OF THE FAMILY FARM LEGAL NEEDS SURVEY

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### I. INTRODUCTION

In the agricultural community, crop production research and economic analysis of the “family farm” receive extensive government support and scholarly attention. A missing element, especially in the increasingly complex environment of post-modern agriculture, is a comprehensive analysis of the legal issues facing today’s farm operators. To better understand farmers’ need for legal services and targeted educational programming, the authors, with the support of several cooperating organizations,<sup>1</sup> conducted a family farm legal needs survey of Illinois farmers in 2007. The results indicate that farmers’ primary legal concerns relate to federal support programs, taxation issues, and environmental compliance.<sup>2</sup> Despite the important and complex nature of these legal issues, the survey revealed that few farmers sought out an attorney’s services. For those who did engage an attorney, satisfaction rates varied, indicating a potential area of improvement for the practicing bar.

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1. Cooperating organizations include: University of Illinois Extension, Illinois Bar Foundation, the Agricultural Law Section Council of the Illinois State Bar Association, Land of Lincoln Legal Assistance Foundation, Prairie State Legal Services, and Farmers’ Legal Action Group.

2. Federal programs include those that are administered by the United States Department of Agriculture (“USDA”) and its underlying agencies, such as the Natural Resources Conservation Service (“NRCS”), the Agricultural Marketing Service (“AMS”), and the Animal and Plant Health Inspection Service (“APHIS”). Particular programs of interest to Illinois farmers include farm loan programs, price support programs, and the Conservation Reserve Program (“CRP”). The focus groups, discussed below, elaborated on respondents’ notions of what comprised “federal programs.”

The primary motivation of the survey was to identify legal issues important to the family farm and develop appropriate strategies for legal education. Accordingly, it is important to define a “family farm” as a starting point for further analysis. After a discussion of various legal definitions of family farming and the survey data, the balance of this article is a summary of the legal needs study and its implications for the legal community. Part II is a brief discussion of the methodology used to conduct the survey and follow-up focus group meetings, as well as the techniques employed to analyze the data. Part III is a summary of the results of the research project and analysis of emerging themes revealed by the survey data. This article concludes with observations intended to benefit the rural lawyer and educator, as well as the broader agricultural community.

### A. *Defining the Family Farm*

The 2002 Census of Agriculture reported that individuals or a family own almost 90% of farms in the United States.<sup>3</sup> Legal ownership of farmland, however, does not necessarily make a farm a “family farm.” The United States Department of Agriculture (“USDA”) and some states consider several criteria when characterizing an operation as a family farm. Common factors include the amount of labor and management performed by family members, farm size, the farm’s business structure, gross farm sales, the residency of the landowner, and land tenure.<sup>4</sup> Researchers, accordingly, may reach vastly different conclusions as to the total number of “family farms” depending on the selection and weight of the various criteria.<sup>5</sup>

The traditional, romanticized notion of a family farm is a deeply rooted symbol in American history and ideology.<sup>6</sup> The Jeffersonian concept of family owner-operatorship of a farm represents this idealistic notion.<sup>7</sup> Under this model, the family farmer works and manages the land he

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3. U.S. Dept. Agric. Natl. Agric. Statistics Serv., *2002 Census of Agriculture: United States Summary and State Data* 6 tbl. 1, [http://www.agcensus.usda.gov/Publications/2002/Volume\\_1,\\_Chapter\\_1\\_US/st99\\_1\\_001\\_001.pdf](http://www.agcensus.usda.gov/Publications/2002/Volume_1,_Chapter_1_US/st99_1_001_001.pdf) (June, 2004).

4. See John Lemons, *Structural Trends in Agriculture and Preservation of Family Farms*, 10 *Envtl. Mgt.* 75, 76–79 (1986).

5. *Id.* (noting that “Statistically, the number of family farms may range from a low percentage to approximately 95% of all farms, depending upon how the family farm is defined.”).

6. Carl C. Taylor, *The Family Farm in the New Society*, 19 *Rural Sociology* 271, 273 (1954). The ideal family farm symbolizes American rural culture, where farming is a way of life. The family farm serves as a symbol of independence and lifelong security for generations. For example, the painting “American Gothic” by Grant Wood, depicting a farmer and his daughter is perhaps one of the better know examples of American art. Art Inst. Chi., *American Gothic*, [www.artic.edu/aic/collections/artwork/6565](http://www.artic.edu/aic/collections/artwork/6565) (accessed Oct. 8, 2009). Although this traditional notion of a family farm may be more myth than present day reality, it is a deeply embedded symbol in the United States.

7. Taylor, *supra* n. 6, at 271; Lemons, *supra* n. 4, at 77.

owns in fee simple primarily to feed and clothe his family.<sup>8</sup> In a modern world, very few farms qualify under the Jeffersonian definition, as most operators produce agricultural products for the market, hire outside help, and rent farmland to supplement personal land holdings.<sup>9</sup>

Beyond the narrow Jeffersonian model lie a variety of family farm definitions.<sup>10</sup> The Economic Research Service (“ERS”) of the USDA defines family farms as “operations organized as proprietorships, partnerships, or family corporations that do not have hired managers.”<sup>11</sup> In 2003, 98% of farms qualified as family farms under the ERS definition.<sup>12</sup> Another definition describes a family farm as one where agricultural production is (1) the primary occupation of the operator (or is an important contributor to the family income); (2) provides at least half-time employment for an operator, family member, or a hired laborer; and (3) is operated by no more than three extended families.<sup>13</sup>

Congress has also cryptically defined a family farm as all farms except large, non-family corporations.<sup>14</sup> More specifically, the Senate Committee on Agriculture and Forestry defined a family farm as “a primary agricultural business in which the operator is a risk-taking manager, who with his family does most of the farmwork and performs most of the managerial activities.”<sup>15</sup> The Senate Committee definition focuses on the degree to which productive effort and its accompanying reward are vested in the family, rather than other measures such as farmland tenure, volume of sales,

8. Lemons, *supra* n. 4, at 77.

9. *Id.*; see also Pew Commn. Farm Animal Prod., *Putting Meat on the Table: Industrial Farm Animal Production in America*, [http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Industrial\\_Agriculture/PCIFAP\\_FINAL.pdf](http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Industrial_Agriculture/PCIFAP_FINAL.pdf) (Apr. 29, 2008) (reporting results from a two-year study of animal production in the United States). For a comprehensive law and economics discussion of the evolutionary structure of American farming operations, see Douglas W. Allen & Dean Lueck, *The Nature of the Farm*, 41 J. L. & Econ. 343 (1998).

10. See e.g. U.S. Dept. Agric. Econ. Research Serv., *Farm Structure: Questions and Answers*, <http://www.ers.usda.gov/Briefing/FarmStructure/Questions/familyfarms.htm> (updated July 9, 2002).

11. U.S. Dept. Agric. Econ. Research Serv., *ERS Report Summary: 2005 Family Farm Report on the Structure and Finances of U.S. Farms 1*, [http://www.ers.usda.gov/publications/EIB12/EIB12\\_report\\_summary.pdf](http://www.ers.usda.gov/publications/EIB12/EIB12_report_summary.pdf) (May 2006). The ERS also defined a family farm as “any farm where the operator, and individuals related to the operator by blood, marriage, or adoption, own more than 50 percent of the business.” Erik J. O’Donoghue et al., *Exploring Alternative Farm Definitions: Implications for Agricultural Statistics and Program Eligibility 23*, <http://www.ers.usda.gov/Publications/EIB49/EIB49fm.pdf> (Mar. 2009).

12. U.S. Dept. Agric. Econ. Research Serv., *supra* n. 11, at 1.

13. Daniel A. Sumner, *Farm Programs and Structural Issues* 286 (Bruce L. Gardner ed., Am. Enter. Inst. for Pub. Policy Research 1985).

14. 7 U.S.C. § 2266 (2006). Further, for purposes of filing for bankruptcy relief, Congress defined a family farmer as an “individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed \$3,544,525” or as a “corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family.” 11 U.S.C. § 101(18).

15. David E. Brewster, *Changes in the Family Farm Concept*, in *Farm Structure: A Historical Perspective in Changes in the Number and Size of Farms* 21 (GPO 1980).

acreage, residency, or capital investment.<sup>16</sup> Further describing the degree of risk and management, a family farm is an operation with little or no hired management and no non-family corporations or cooperatives.<sup>17</sup> This definition encompasses almost all domestic agricultural entities with even tenuous family ties.<sup>18</sup>

Individual states have also crafted their own definitions of family farm. For example, under Illinois law, a “family farmer” is an individual who is a resident of Illinois and owns or leases land in Illinois that is used as a farm.<sup>19</sup> Illinois’ broad definition classifies farmers as family farmers, regardless of farm size, family involvement in the farm operation, or farm business structure. Iowa provides a slightly more limiting definition. The Iowa statute defines family farms based on the type of business structure—corporation, limited liability company, or limited partnership.<sup>20</sup> To qualify as a family farm, the owners must create the business for the purpose of farming, a majority of related individuals within the business entity must have ownership of agricultural land, and 60% of the gross revenues of the business over the last three years must have come from farming.<sup>21</sup> Although the general partner of an Iowa family farm limited partnership must manage and supervise the day-to-day farming operations on the agricultural land, there is no such requirement for members of family farm limited liability companies or family farm corporations.<sup>22</sup> Unlike in Illinois, the Iowa definition excludes tenant farmers from the family farm definition, places an emphasis on the familial relationship of the business owners, and includes operations owned by non-residents.<sup>23</sup>

While Illinois and Iowa provide statutory requirements for qualification as a family farm, constitutional provisions in Nebraska and South Da-

16. Lemons, *supra* n. 4, at 76.

17. *Id.*

18. See Brewster, *supra* n. 15, at 22; see also Lemons, *supra* n. 4, at 76. The USDA also classifies family farms into four separate categories, based on the amount of hired labor, land tenure, legal status, and work force. Lemons, *supra* n. 4, at 76. The amount of hired labor category defines a family farm as a family-operated business that uses no more than 1.5 man-years of hired labor or management. *Id.* (citations omitted). Under this classification, 95% of all farms are family farms. *Id.* The land tenure category groups farm operators into full owners, part owners, tenants, and hired managers; over 80% of farms and farmland are occupied by full or part owners. *Id.* (citations omitted). The legal status category considers the structure of a farm business. Sole proprietorships, partnerships with ten or fewer shareholders, and corporations with ten or fewer shareholders are considered family farms. *Id.* The workforce category considers the proportion of family labor to total farm labor, and on a family farm, approximately 75% of labor is done by family members. *Id.* (citations omitted).

19. 505 Ill. Comp. Stat. 57/5 (2008). Essentially, all farm land in Illinois that is owned or leased by Illinois residents engaged in farming are family farmers under this statutory definition.

20. Iowa Code § 9H.1 (2008).

21. *Id.*

22. *Id.*

23. See *id.*

kota define family farms. Nebraska family farm or ranch corporations must engage in farming, ranching, or the ownership of agricultural land, with the majority of the voting stock held by members of a family, at least one of whom must reside on, or be actively engaged in, the day-to-day labor and management of the farm.<sup>24</sup> Stockholders in Nebraska family farm or ranch corporations cannot be non-resident aliens, corporations, or partnerships unless all of the stockholders or partners are related within the fourth degree of kindred to the majority of the stockholders in the family farm corporation.<sup>25</sup> Similarly, under South Dakota law, a family farm corporation must engage in farming or the ownership of agricultural land, with members of a family holding a majority of the ownership interests.<sup>26</sup> At least one of the family members must reside on, or be actively engaged in, the day-to-day labor and management of the farm.<sup>27</sup> None of the corporation's partners, members, or stockholders may be non-resident aliens or other corporations unless all of the stockholders, members, or partners are related within the fourth degree of kinship to the majority of partners, members, or stockholders in the family farm corporation.<sup>28</sup>

An emerging theme in the Illinois, Nebraska, and South Dakota definitions is residency. In 1998, South Dakota passed a referendum known as Amendment E, Section 21, which prohibited corporations and syndicates, subject to certain exemptions, from acquiring or obtaining an interest in land used for farming and from otherwise engaging in farming in South Dakota.<sup>29</sup> The Eighth Circuit held in *South Dakota Farm Bureau, Inc. v. Hazeltine* that Amendment E violated the Dormant Commerce Clause.<sup>30</sup> The court found that the Amendment was motivated by discriminatory interests that favored in-state economic interests over out-of-state persons.<sup>31</sup> Because reasonable non-discriminatory alternatives could advance the legitimate state interest of promoting family farms, the court held that the State could not justify Amendment E's discriminatory purpose.<sup>32</sup> Although residency may be a requirement for qualification as a "family farm" in some instances, Amendment E simply went too far in restricting access to farming.<sup>33</sup>

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24. Neb. Const. art. XII, § 8.

25. *Id.*

26. S.D. Const. art. XVII, § 22.

27. *Id.*

28. *Id.*

29. *S.D. Farm Bureau, Inc. v. Hazeltine*, 340 F.3d 583, 587 (8th Cir. 2003).

30. *Id.* at 597.

31. *Id.*

32. *Id.* at 596–597.

33. See Roger A. McEowen & Neil E. Harl, *South Dakota Amendment E Ruled Unconstitutional—Is There a Future for Legislative Involvement in Shaping the Structure of Agriculture?* 37 Creighton L. Rev. 285, 300 (2004).

In summary, researchers, the federal government, and states use a wide variety of family farm definitions. Over time, family farm definitions have become broader and more focused on a farm's method of business organization than on the ability of the farm to sustain the needs of a family.<sup>34</sup> Modern definitions of a family farm are also more accommodating of physically and financially larger farms and have become more protectionist of American farmland.<sup>35</sup> As the concept of the family farm evolves, so, too, do the legal needs of family farmers.

### *B. Family Farm Definitions and the Farmers' Legal Needs Survey*

The survey questionnaire mailed to respondents intentionally did not define "family farm." Researchers omitted this definition in order to allow respondents to self-identify based on their personal notion of a family farm. Allowing respondents to classify themselves as family farmers based on their own beliefs allowed researchers to extrapolate potential criteria based on respondents' answers to other survey questions.

In light of the relatively expansive federal and state definitions of "family farms," it is not surprising that 91% of respondents self-described their operation as a family farm. Across all categories of gross farm sales, at least three-quarters of respondents considered their operations to be family farms. Interestingly, the results showed a positive correlation between gross farm sales and the tendency to self-identify as a family farm operation.<sup>36</sup> Essentially, the greater the gross farm sales (i.e., the larger the farm), the more likely a farmer is to consider his or her operation a family farm. The smallest farms (those with less than \$10,000 gross farm sales) had the lowest self-categorization of family farms at 76%. Labor input, similar to size, had little impact in determining a "family farm." The majority of respondents, over 85%, consider their farming operations to be family farms even when family members contribute less than 25% of the labor or management.<sup>37</sup> Seventy percent of respondents indicated that at least one relative is working with them on the farm.

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34. Compare the Jeffersonian definition, *supra* notes 7–8 and accompanying text, with the Illinois definition, *supra* note 19 and accompanying text, for an illustration of this contrast.

35. See e.g. the South Dakota family farm definition, *supra* notes 26–28 and accompanying text.

36. In the less than \$10,000 gross farm sales category, 76.47% of farmers consider their operation to be a family farm. Between \$10,000 and \$49,999, 87.88% of farmers consider their operation to be a family farm. Between \$50,000 and \$99,000, 95.52% of farmers considered their operation to be a family farm. Between \$100,000 and \$249,999, 93.33% of farmers consider their operation to be a family farm. Between \$250,000 and \$999,999, 98.6% of farmers consider their operation to be a family farm. Finally, 94.12% of farmers with gross farm sales over \$1 million consider their operation to be a family farm.

37. When family members provided 25% or less of the hours of labor on the farm, 85.78% of respondents identified their operation as a family farm. When family members provided 26–50% of the

The survey results stand in sharp contrast to the Jeffersonian model of a family farm. Some Illinois farmers define a family farm broadly to include farms with high gross value of sales; farms where nonfamily members contribute most of the work; and farms that conduct operations on rented land, over large acreages, and under a corporate business structure. Possible explanations for the tendency to self-identify as a family farm as gross farm sales increase could be a desire to preserve, despite reality, the idyllic notion of the family farm in American culture or perhaps avoid the social stigma attached to identifying as “corporate” rather than “family.” These sociological issues are ripe for further exploration.<sup>38</sup>

## II. METHODOLOGY

### A. *The Questionnaire Packet & Sample Selection*

In 2006, under the leadership of the Laboratory for Community and Economic Development at the University of Illinois, a committee of leading agricultural lawyers developed the Farmers’ Legal Needs Survey questionnaire packet.<sup>39</sup> The twenty-question survey asked farmers about the usefulness of legal services and educational programs, the importance of various issues to their farming operations, the types of educational programs they are likely to use, their past experiences with attorneys, as well as demographic information.<sup>40</sup>

Researchers worked with the Illinois Field Office of the National Agricultural Statistics Service (“NASS”) to design the sampling framework. To ensure equal representation of farmers from across Illinois, researchers organized the State into three geographic regions. Regions follow county lines and roughly create three distinct agricultural areas in Illinois, each of which includes approximately one-third of the State’s farms. The regions

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hours of labor, 93.94% of respondents identified their operation as a family farm, and when family members provided 51–75% of the hours of labor, 97.92% of respondents identified their operation as a family farm. When family members provided more than 76% of the hours of farm labor, 96.27% of respondents considered their farm to be a family farm. However, respondents were more likely to consider their operation to be a family farm as the portion of hours of labor family members provide on the farm increased. Respondents were also more likely to identify their operation as a family farm as the portion of management family members provided on the farm increased.

38. For a brief article describing the “mental modes” of farmers, see Eileen Eckert & Alexandra Bell, *Invisible Force: Farmers’ Mental Modes and How They Influence Learning and Actions*, 43 J. Extension 3 (June 2005).

39. Members of the University of Illinois Agricultural Law Group, Land of Lincoln Legal Assistance Foundation, Prairie State Legal Services, and Farmer’s Legal Action Group comprised the committee.

40. The University of Illinois Institutional Review Board approved the questionnaire packet in January 2007.



ensure consistent trend measurement across the State and that no single geographic area disproportionately influences the survey results.

For each of the three regions, researchers used systematic sampling to randomly select farms representative of the population of farms in that region as organized by gross value of sales (“GVS”). This method of selecting samples based on GVS corresponds to the USDA’s Census of Agriculture and ensures coverage of all economic classes.<sup>41</sup> Researchers sorted farms on the NASS<sup>42</sup> List Sampling Frame (“LSF”) by GVS from highest to lowest. Systematic samples were drawn with the goal of having samples of approximately 1,000 farms in each region.<sup>43</sup>

Gross value of sales is an appropriate sampling variable because it covers all regions of the State and all types of farms. National Agricultural Statistics Service calculates GVS for each farm based on historical data reported by the farm operator. Systematic sampling involves choosing every  $n^{\text{th}}$  element from a sorted list, which ensures that sample elements will be selected from across the range of a specified variable. Systematic sampling reduces the chance of selecting a biased sample where one aspect of the population is not included in the sample, or an aspect is over-represented.

### B. Data Collection: Survey Process and Focus Groups

On February 5, 2007, NASS mailed 2,969 questionnaire packets to farmers across Illinois.<sup>44</sup> In accordance with standard survey practice and to increase participation, on February 22, 2007, NASS mailed identical

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41. Conducted by the USDA every five years, the Census of Agriculture provides a detailed picture of U.S. farms and ranches and the people who operate them. The Census collects data about land use and ownership, operator characteristics, production practices, income and expenditures, market value of products, and more. Participation in the census is required by law. 13 U.S.C. § 221(a). The Census is the most widely accepted source of uniform and comprehensive agricultural data for every state and county in the United States. See U.S. Dept. Agric. Natl. Agric. Statistics Serv., *The Census of Agriculture*, [http://www.agcensus.usda.gov/About\\_the\\_Census/index.asp](http://www.agcensus.usda.gov/About_the_Census/index.asp) (updated Nov. 17, 2008).

42. NASS, which is part of the USDA, “conducts hundreds of surveys each year and prepares reports covering virtually every aspect of U.S. agriculture,” including “production and supplies of food and fiber, prices paid and received by farmers, farm labor and wages, farm finances, chemical use, changes in demographics of U.S. producers,” and more. See U.S. Dept. Agric. Natl. Agric. Statistics Serv., *About NASS*, [http://www.nass.usda.gov/About\\_NASS/index.asp](http://www.nass.usda.gov/About_NASS/index.asp) (updated Nov. 17, 2008).

43. The maximum practical size for a sample under ordinary conditions is about 1,000 respondents. For populations of 10,000 or more, most experienced researchers would probably consider a sample size between 200 and 1,000 respondents. See Pamela L. Alreck & Robert B. Settle, *The Survey Research Handbook* 64 (3d ed., McGraw-Hill 2004).

44. The mailing distribution rate for each region is approximately 33%. The central region received 34.15% of the surveys, the southern region 32.7%, and the northern region 33.18%. The authors would like to thank the Illinois Field Office of NASS for cooperating on this project.

packets to the same group of farmers.<sup>45</sup> The packets included a cover letter written on University of Illinois Extension Service letterhead and a postage-paid return mail envelope accompanying the four-page, color-coded questionnaire.<sup>46</sup> Researchers examined returned questionnaires for reasonableness and made corrections when necessary.<sup>47</sup>

In response to the survey results, researchers developed a format for focus groups. The goal of the focus group meetings was to gain more in-depth information on the leading issues identified in the survey.<sup>48</sup> The researchers conducted three focus groups—one in Bureau County in northern Illinois on August 1, 2007; one in Latham in central Illinois on August 16, 2007; and one in Mt. Vernon in southern Illinois on November 19, 2007. The University of Illinois Extension Office invited members of the agricultural community in each region to participate in the focus groups.<sup>49</sup>

Each focus group session lasted approximately two hours. Because focus group participants may not have been part of the randomly selected survey sample, participants also completed the survey questionnaire at the start of the session. During each meeting, one researcher moderated the discussion while another took notes. Each focus group session was recorded and subsequently transcribed.<sup>50</sup>

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45. The questionnaire packet was sent twice, giving respondents two chances to complete and return the questionnaire. All other things being equal, response rates increase when people are contacted more often. See Priscilla Salant & Don A. Dillman, *How to Conduct Your Own Survey* 146 (John A. Wiley & Sons, Inc. 1994).

46. Color coding the questionnaires allowed researchers to identify responses by region as they were returned without revealing to respondents that they were part of a regional group. Respondents may feel their anonymity is compromised if they believe their responses can be traced back to them. Color coding the surveys rather than labeling them with a region code preserves the respondents' anonymity, which in turn may increase respondents' willingness to participate in the survey.

47. Researchers made corrections to the survey questionnaires when respondents indicated a clear answer but did not fill out the questionnaire properly. For example, respondents occasionally used abbreviations or wrote in an answer but did not properly circle or correctly spell their answer. The coding protocol follows National Science Foundation editing guidelines and procedures for "best coding" practice. Natl. Sci. Found., *Science and Engineering Statistics*, <http://www.nsf.gov/statistics/sestat/editing.cfm> (updated Nov. 1, 2009).

48. The authors wish to thank University of Illinois Extension, the county offices in Bureau and Christian Counties, and the Southern Regional offices that hosted farmers participating in "Annie's Project," a program for women engaged in farming. In particular, the authors recognize the contributions of Gary Letterly, Natural Resource Educator in Christian County; Jill Guynn, Bureau County Director; and Ruth Hambleton, Extension Educator in Farm Business Management.

49. The focus group participants in northern and central Illinois were all male, while the southern Illinois focus group participants were all female. The University of Illinois Extension Office invited a group of women who meet regularly to discuss agricultural issues to serve as the southern Illinois focus group.

50. Due to technical problems, only the northern and central Illinois focus group meetings were recorded fully and transcribed. Researchers' notes from the southern Illinois meeting adequately capture the essential issues from this meeting.

### III. SURVEY RESULTS AND IMPLICATIONS

The Laboratory for Community and Economic Development received 559 completed surveys for a highly favorable response rate of 18.83%.<sup>51</sup> In addition to the favorable response rate, the Farmers' Legal Needs Survey respondents' demographics approximated Census of Agriculture results—an important measure of sample selection reliability. A key demographic is the age distributions among the three regions, the State, and the country. The 2002 Census of Agriculture reported the average age of farm operators in Illinois as 55.1 years.<sup>52</sup> Four years later, in 2007, the Farmers' Legal Needs Survey found the average age to be similar—58.55 years. No particular region represented a statistically significant age difference.

Survey questions 10 through 20 solicited background information about the respondents' farming operations. Ninety-five percent of the respondents were male. The mean number of acres farmed was 702, while the median was 400 acres. The mean number of acres owned was 279.8, with a median of 160 acres. The most frequent response to the number of years the respondent had been farming full-time was 30 years. For part-time farming, 20 years was the most frequent response. The respondents' primary type of farm enterprise was grain farming.<sup>53</sup>

Question 15 asked respondents to report their gross farm sales for the most recent year. The responses show a roughly equal distribution among the response categories provided in the questionnaire. The most frequent response was the \$10,000 to \$49,000 category, and the average was \$50,000 to \$99,000.

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51. In their survey plan for this project, NASS estimated a 10% response on the first mailing and a 5% response on the second mailing. NASS based these response rate estimates on their experience with this population. The survey plan aimed for 50 useable reports for each economic size group within each region, resulting in 300 useable reports from across the state. Thus, we selected 3,000 farm operations for the study. The actual response rate of 18%, or 559 completed questionnaires, exceeded the estimate and provided adequate material from the sample population to generalize to the populations as planned. The central region had the largest sample (1,014) and returned the most questionnaires (217) for a response rate of 21%. No region had a response rate much higher or lower when compared to the other regions or the State total. The regions follow an even distribution, with each region's response and mailing distribution being relatively close to 33%.

52. U.S. Dept. Agric. Natl. Agric. Statistics Serv., *2002 Census of Agriculture: United States Summary and State Data* 544 tbl. 40, [http://www.agcensus.usda.gov/Publications/2002/Volume\\_1,\\_Chapter\\_2\\_US\\_State\\_Level/st99\\_2\\_040\\_040.pdf](http://www.agcensus.usda.gov/Publications/2002/Volume_1,_Chapter_2_US_State_Level/st99_2_040_040.pdf) (June 2004).

53. Question 19 asked farmers to report their major farm enterprises. By far, the most common enterprise was grain production, with 81.5% of farmers listing grains as one of their enterprises. Accordingly, the most common marketing method is use of a grain elevator, with 80.9% of farmers listing elevator as one of their marketing procedures in response to question twenty. Other common enterprises include cattle (28%) and forage crops (12.9%). Common write-in responses for farm enterprises included sheep, horses, and conservation reserve programs, but none of these write-in responses accounted for more than 2% of listed major farm enterprises.

	Gross Farm Sales			Total and (%)
	Central Region Total and (%)	Southern Region Total and (%)	Northern Region Total and (%)	
Less than \$10,000	33 (16.2%)	29 (26.6%)	25 (16.7%)	87 (18.8%)
\$10,000 to \$40,000	43 (21.1%)	29 (26.6%)	33 (22.1%)	105 (22.7%)
\$50,000 to \$90,000	30 (14.7%)	11 (10.0%)	25 (16.7%)	66 (14.3%)
\$100,000 to \$249,999	40 (19.7%)	21 (19.2%)	30 (20.1%)	91 (19.7%)
\$250,000 to \$999,999	50 (24.6%)	18 (16.5%)	29 (19.4%)	97 (21.0%)
\$1,000,000 or more	7 (3.44%)	1 (0.91%)	7 (4.69%)	15 (3.25%)
Total	203	109	149	461 (100%)

When asked in question 17 about the hours of farm labor performed by family members, 43.1% reported that family members provided more than half of the hours of *labor*. In response to question 18, 41.4% reported that family members provided more than half of the hours of *management*. The consolidated responses to questions 17 and 18, displayed in the following chart, also reveal a bi-modal distribution grouping in which family members either provided very little labor/management (e.g., 42.5% reported family labor and almost 47.8% reported family management below 25% of total labor and management, respectively) or a high degree of total services (e.g., 33.1% reported family labor and 37.5% reported family management above 75% of total family land and management, respectively).

	Percentage of time provided by family members	
	Labor Frequency and %	Management Frequency and %
0-25%	199 (42.5%)	222 (47.8%)
26-50%	67 (14.3%)	50 (10.8%)
51-75%	47 (10.9%)	18 (3.9%)
76-100%	155 (33.1%)	174 (37.5%)
Total	468 (100%)	464 (100%)

### A. Identifying the Relative Importance of Specific Legal Issues

In addition to demographic questions, the survey asked respondents to identify important legal issues for the family farm that would require the assistance of counsel or educational programming. The questionnaire listed 15 legal issues potentially relevant to the respondent's farming operation.

One question asked respondents to indicate the degree of importance of 15 issues to their farming operation,<sup>54</sup> while three follow-up questions determined the strength of the responses.<sup>55</sup>

Federal programs was the most prevalent issue, with 228 of the 549 respondents (41.5%) listing it as very important.<sup>56</sup> When asked to identify the three most important issues related to their farming operations, approximately 12% of the respondents listed federal programs as one of their top three. The next most frequently listed issues were tax (10.38%) and energy (9.96%). Although tax and energy issues are relatively straightforward, federal programs warrants some description.

Through focus group discussions, respondents defined federal programs to include the vast array of federal subsidies and attendant rules to support agricultural production<sup>57</sup> and improve environmental quality.<sup>58</sup> The dominance of federal programs in survey responses has several potential explanations. It may simply reflect the fact that, coincidentally, the survey was conducted while the new federal farm bill legislation was conceptually evolving; as a practical matter, the agricultural media had been aggressively

54. Question 2 asked: "For YOUR FARMING OPERATION, how important is each of the following issues? Please check the box that most closely indicates how important the issue is to your farming operation" (emphasis in original). Categories of importance were "not at all important," "less important," "somewhat important," "important," "somewhat important," "very important," and "I'm not sure."

55. Question 3 asked: "Of all the issues on the list above, which three are the most important for YOUR FARMING OPERATION? Please list each identifying letter (a through p) from the list above on a line, below. For each item you list, please check whether you might *need legal services* in the coming year, or if you would like to *attend an educational program* to learn more about the issue" (emphasis in original).

Question 4 asked: "If you were to consider OTHER FARMERS IN YOUR AREA, which three issues on the list in Question 2 are the most important to them? Please list each identifying letter on a line, below. For each issue, please check whether you think farmers in your region might *need legal services* or if they would *attend an educational program* to learn more about that issue. (They might be the same issues you identified in Question 3)" (emphasis in original).

Question 5 asked: "Of the issues in Question 2, what is the most important issue you have dealt with? (*use that issue's identifying letter*)" (emphasis in original).

56. The central region accounted for the majority of the responses, indicating federal programs as very important; 93 of the 228 total respondents were from the central region.

57. The Commodity Title of the 2008 Farm Bill, H.R. 6124, *The Food Conservation and Energy Act of 2008*, outlines the numerous federal support programs. Pub. L. No. 110-246, 122 Stat. 1651 (2008). Although a full discussion of the federal support programs is beyond the scope of this article, the authors invite readers to explore two key subtitles of the comprehensive bill: *Direct Payments and Counter-Cyclical Payments* (Subtitle A), *id.* at §§1101-1109, and *Marketing Assistance Loans and Loan Deficiency Payments* (Subtitle B), *id.* at §§ 1201-1210.

58. The Environment Title of the 2008 Farm Bill, at Title II, outlines the various federal programs designed to improve environmental quality. Pub. L. No. 110-246. Although a full discussion is beyond the scope of this article, key provisions include the following: *Definitions and Highly Erodible Land and Wetland Conservation* (Subtitle A), *id.* at §§ 2001-2003, *Conservation Reserve Program* (Subtitle B), *id.* at §§2101-2111, *Wetlands Reserve Program* (Subtitle C), *id.* at §§ 2201-2210, *Environmental Quality Incentives Program* (Subtitle F), *id.* at §§ 2501-2510, *Other Conservation Programs of the Food Security Act of 1985* (Subtitle G), *id.* at §§ 2601-2606.

reporting on farm bill issues in print media and on radio and television in the months preceding the arrival of the questionnaire in the mailboxes of respondents.<sup>59</sup> The dominance of this issue also could indicate the reliance of many Illinois farmers on federal support for their farming operations, although this seems less likely since federal farm program payments have been a smaller portion of farm income in recent years of higher commodity prices.<sup>60</sup>

In addition to identifying the three most important legal issues, the questionnaire also asked whether respondents would need legal services or would attend an educational program for each issue. Overall, respondents indicated a far greater willingness to attend an educational program than to seek out legal services. The following table summarizes the results:

Whether Respondents Would Need Legal Services or Attend an Educational Program on a Specific Issue				
Issue	Need Legal Services? (Number of Positive Responses)		Attend an Educational Program? (Number of Positive Responses)	
Federal Programs	7%	(144)	77%	(176)
Energy	17%	(127)	81%	(150)
Tax Issues	28%	(119)	83%	(140)
Environmental Laws	15%	(89)	72%	(109)
Land Use Issues	17%	(75)	74%	(92)
Marketing and Diversification	7%	(69)	83%	(82)
Farmland Lease Issues	29%	(63)	80%	(80)
Structuring a Farm Business	39%	(64)	85%	(74)
Seed Saving Issues	15%	(27)	77%	(35)
Natural Disaster Problems	18%	(17)	67%	(27)
Employing Workers	23%	(22)	59%	(27)
Debt and Credit Problems	3%	(20)	69%	(26)
Livestock Production Contracts	17%	(23)	71%	(24)
Other	64%	(14)	29%	(17)
Divorce	56%	(9)	60%	(7)
Discrimination	0%	(0)	95%	(5)

The results present an interesting disconnect between the importance of a legal issue and the perceived need for professional legal services. For example, federal programs and energy issues were the top two legal issues

59. The House of Representatives passed the 2007 Farm Bill on July 27, 2007, after vigorous debate. See U.S. H. Reps. H. Comm. Agric., *Farm Bill*, <http://agriculture.house.gov/inside/2007FarmBill.html> (accessed Oct. 8, 2009).

60. Data from nearly 6,000 Illinois farms participating in the Illinois Farm Business Farm Management Program was analyzed to determine the proportion of gross farm revenue arising from farm program payments administered by the Farm Service Agency of the USDA. Interview with Dale Lattz, Farm Management Extension Specialist (Feb. 2, 2008). From 1995 through 2007, these farm program payments, as a percentage of gross farm revenue, ranged from a low of 1.76% in 1995 to a high of 22.13% in 1999. *Id.* Relatively high commodity prices during the last two years were 5.95% in 2006 and 3.40% in 2007. *Id.*; see also U. Ill. Extension, *Summary of Illinois Farm Business Records 2007* (U. Ill. 2008) (summarizing the farm records for the year 2007 for nearly 6,000 actual Illinois farms).

identified in terms of “importance,” but respondents indicated a very low need for legal services, 7% and 17%, respectively. On the other hand, structuring a farm business, the seventh most frequently identified issue, garnered the highest percent response in the need for legal services—39%. Perhaps most striking to the legal practitioner is that more than 60% of those respondents identified “structuring a farm business” as one of the top three issues for which they did not need professional legal services. Other issues, such as tax, farmland leases, and employing workers, had relatively high response rates for the need for legal services.

The implications for the legal community are that many farmers, even when confronted with legal issues they deem to be important to their farming operation, do not perceive a need to retain professional legal services. On the other hand, most survey respondents would attend an educational program targeted toward the respective legal issue. These results may be a product of farmer reliance on other sources of information, such as farm or agricultural organizations, newsletters or trade publications, other farmers and neighbors, university extension programs, and state agencies rather than an attorney for information regarding important legal issues.<sup>61</sup>

### B. Respondents' Actual Use of Legal Services

The survey and focus group discussions revealed three motivations for respondents' unwillingness to seek out the services of an attorney.<sup>62</sup> Respondents demonstrated a clear pathology toward attorneys in both the focus group discussions and the survey write-in responses.<sup>63</sup> Respondents also noted the cost of hiring an attorney and expressed skepticism that pro-

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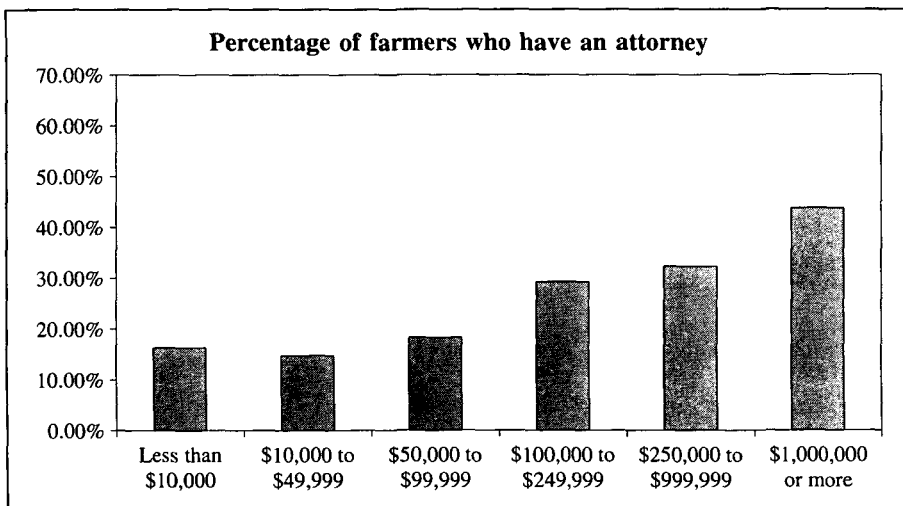
61. In a study addressing the information sources that farmers use to explore a new crop, farmers identified a range of sources as “preferred channels” of information. See Maria B. Villamil, Anne H. Silvis, & German A. Bollero, *Potential Miscanthus' Adoption in Illinois: Information Needs and Preferred Information Channels*, 32 *Biomass & Bioenergy* 1338, 1338–1348 (2008).

62. Question 6 asked respondents if they had an attorney when dealing with the issue they listed as most important in question 5. Specifically, question 6 stated: “When you dealt with that issue, did you have an attorney? If yes, did your attorney help to resolve the issue to your satisfaction and preserve farm assets?” As a follow up, question 7 asked: “If you *did not* have an attorney or legal information for one of the issues in Question 2, do you think that legal help would have resulted in a better resolution for your farming operation?” (emphasis in original). Question 8 asked: “If you faced one of these issues in Question two, but *did not* have an attorney, why not?” (emphasis in original).

63. Some respondents indicated that they “didn’t like” or “didn’t trust” attorneys or the legal system. The Illinois State Bar Association launched a campaign to address distaste for attorneys amongst the public. The campaign includes billboards along interstate highways noting that Illinois has a history of excellent lawyers accompanied by a picture of Abraham Lincoln. See Ill. St. Bar Assn., *Lincoln Enhances Lawyers' Image on Billboards*, <http://www.isba.org/association/may07bn/Lincoln.htm> (accessed Oct. 8, 2009) (discussing advertising campaign to improve lawyer image); Ill. St. Bar Assn., *Our “Abe” Attends State Fair to Boost Image of Lawyers*, <http://www.isba.org/association/aug07bn/Our.htm> (accessed Oct. 8, 2009) (discussing advertising at high volume events across Illinois).

professional legal services would be helpful in resolving their particular situation.

Focusing on the most objectively measurable motivation for declining to seek legal services—cost—the authors investigated potential correlations between prior use of an attorney and gross farm sales. Survey question 6 asked respondents whether they had retained an attorney when dealing with the legal issue they identified as “most important.” The responses, not surprisingly, reveal a positive correlation between gross value of sales and the likelihood to hire an attorney. About 16%<sup>64</sup> of respondents with gross farm sales below \$100,000 had hired an attorney when dealing with the legal issue most important to them, while 29% of respondents with gross farm sales between \$100,000 and \$249,999 retained counsel, as did 32% of respondents with gross farm sales between \$250,000 and \$999,999, and 44% of respondents with gross farm sales over \$1,000,000.



The strong correlation between gross farm sales and the likelihood to hire an attorney indicates that financial concerns about the cost of legal services may be a significant factor in whether farmers choose to hire an attorney.<sup>65</sup> However, cost may not be the only significant factor that determines whether a farmer will hire an attorney.

64. Approximately 16.28% of respondents with gross farm sales below \$100,000 hired an attorney when dealing with their most important issue. Approximately 14.74% of respondents with gross farm sales between \$10,000 and \$49,999 hired an attorney when dealing with the issue most important to them. Approximately 18.33% of respondents with gross farm sales between \$50,000 and \$99,999 hired an attorney when dealing with the issue most important to them.

65. Thirty-three percent of respondents with gross farm sales under \$10,000 indicated that they did not hire an attorney to deal with the issue most important to them because they could not afford an attorney. Seventeen percent of respondents with gross farm sales between \$10,000 and \$49,999 did not



The perception of “helpfulness” apparently plays a statistically significant role in the decision to hire an attorney. For example, as gross farm sales increased, the likelihood that respondents chose not to hire an attorney due to lack of perceived helpfulness also increased, indicating that skepticism about the benefits of legal services may deter large farm operators from hiring an attorney more so than the cost of legal services. For example, issues relating to livestock production contracts and marketing were important to respondents, but farmers were unlikely to seek out legal services relating to these issues,<sup>66</sup> possibly because of skepticism that the issues could be resolved in a more favorable manner with the assistance of counsel.<sup>67</sup>

On the positive side, 83% of respondents who chose to hire an attorney to deal with their most significant problem reported satisfaction with the services received. Moreover, there was no statistically significant correlation between gross farm sales and satisfaction. Respondents who sought out the services of an attorney reported the highest level of satisfaction with legal services for issues regarding farmland leases (100%), employing workers (100%), structuring farm businesses (95%), tax issues (88%), land use issues (83%), and energy (80%). Respondents reported the lowest level of satisfaction with legal services regarding divorce (58%), federal programs (67%), and debt (67%).

The authors, therefore, offer the preliminary conclusion that most respondents who did not hire an attorney doubted the ability of an attorney to help their situation. Accordingly, attorneys seeking to increase their farmer clientele may not need to focus their marketing efforts on affordable rates, but rather emphasize their expertise and potential helpfulness in resolving legal issues. Although not part of the survey data, an additional explanation for the lack of perceived “helpfulness” of an attorney to deal with legal

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hire an attorney because they could not afford one, as did 15% of farmers with gross farm sales between \$50,000 and \$99,000. Eleven percent of respondents with gross farm sales between \$100,000 and \$249,999 chose not to hire an attorney because they could not afford one. Eight percent of respondents with gross farm sales between \$250,000 and \$999,999 did not hire an attorney because they could not afford one, but none of the respondents with gross farm sales over \$1,000,000 indicated that they chose not to hire an attorney because they could not afford one.

66. Using a multiple logistic regression model, the association of the responses of question 6(a) and 2 revealed a statistically significant (p-value comparable to 0.005) negative correlation between respondents’ willingness to hire an attorney with respect to reported importance of marketing (-.2168; p-value 0.0713) and livestock production contracts (-.2336; p-value 0.0649). Federal programs, the most important issue identified by respondents, had a statistically insignificant and negative correlation with willingness to hire an attorney (-.1168; p-value 0.3738). We also note that for those farmers retaining counsel to address federal programs issues, there was a relatively low (67%) satisfaction rate.

67. Three of the 15 legal issues, however, had a statistically significant (p-value comparable to 0.05) positive correlation between respondents’ willingness to hire an attorney with respect to the increase in importance of: structuring a farm business (.3281; p-value 0.02120), divorce (.2290; p-value 0.0542), and employing workers (.2016; p-value 0.0818).

issues may be an underlying value system of independence and self-sufficiency in the farming community that stretches back to the Jeffersonian idealism described previously. Although this is an admittedly speculative proposition, future research could explore this issue.

### C. Respondents' Identification of Important Legal Issues for Third Parties

Interestingly, farmers' perceptions of the legal needs of other farmers differed significantly with their own. When asked to list the three issues of greatest importance to *other* farmers, respondents once again identified federal programs most often (9.7%) but listed land use (7.1%) and environmental laws (6.2%) second and third. The results indicate a concern over neighbors' potential land use practices and environmental compliance, both issues with potentially strong negative externalities with direct impact on the survey respondent. This also conforms to anecdotal evidence that most farmers perceive themselves as individual stewards of the land<sup>68</sup> but acknowledge compliance challenges of neighbors or "other" farmers.<sup>69</sup> Survey results indicating the need for legal services confirms this discrepancy between self-assessment and the perceived needs of others. Only 19.04% of respondents indicated a personal need for legal services to address their most important legal issue, but 38.76% of respondents thought that other farmers would need legal representation for their most important issue.<sup>70</sup> This may conform to a broader societal perception that as individuals we tend to do the right thing and know the answer, but others may not and therefore require outside assistance.

### D. Law-Related Educational Programming

#### 1. Program Delivery Characteristics

To better target scarce educational resources, the survey asked participants to identify legal topics demanding educational programming or direct

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68. For example, a University of Minnesota focus group study found that "Farmers see themselves as good stewards of the land" and blame others for environmental problems. U. Minn., *Addressing Nonpoint Source Agricultural Pollution in the Minnesota River Basin: Executive Summary*, <http://www.soils.umn.edu/research/mn-river/doc/fgsumweb.html> (Feb. 1996); see also Tiina Silvasti, *The Cultural Model of "the Good Farmer" and the Environment in Finland*, 20 *Agric. & Human Values* 143 (2003) (finding that farmers perceive themselves as benefiting the natural environment).

69. See Jeff Zacharakis, *Conflict as a Form of Capital in Controversial Community Development Projects*, 44 *J. Extension* 5 (Oct. 2006) (available at <http://www.joe.org/joe/2006october/a2.shtml>) (discussing conflicts between farmers regarding land use and environmental compliance).

70. Results regarding the need for education programming exhibited a similar difference between personal needs and the needs of other farmers. More than 78% of survey participants reported a need for educational programs, but almost 87% thought that other farmers needed the same programs.

legal assistance.<sup>71</sup> In addition, the survey requested respondents to indicate what types of law-related educational programs they would be most likely to attend.<sup>72</sup> Respondents rated legal workshops in their community or region, informational brochures or brief written materials on a specific topic, and mailed written materials as the most likely educational resources to be used.<sup>73</sup> Conferences centrally located in the State and direct representation by an attorney were the least likely to be used.<sup>74</sup> Based on the responses and budgetary constraints, the authors conclude that the ideal educational service or source for legal assistance may be a written document that a person can review whenever convenient (perhaps even via the internet), as opposed to attending a conference at a specific time and place.

## 2. *Substantive Topics*

In question 1 of the survey, respondents considered 11 issues and rated the usefulness of legal help or educational programs on the topics. The survey confined responses to the following categories: very useful, somewhat useful, not at all useful, or a fourth option of "I'm not sure." Across the State, respondents thought legal services or educational programming would be most useful for federal programs, energy, natural disaster preparedness, passing on the farm, insurance, and taxation. Issues of moderate interest for legal services and educational programming were marketing, structuring a farm business, and business planning. Issues of relatively low interest were debt and negotiation. The following table displays the responses:

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71. Question 1 asked: "As you think about the future of YOUR FARMING OPERATION, what types of legal services or law-related education programs would be useful to you?" (emphasis in original).

72. Question 9 asked: "Attorneys and University of Illinois Extension can provide legal assistance and information in a variety of ways. Which of the following services are you likely to use?"

73. With respect to workshops, 48.7% and 20.6% of respondents were "somewhat likely" or "very likely" to use, respectively. Informational brochures were even more likely to be used, with 45.2% and 35.3% reporting "somewhat" or "very" likely. Written materials have similar positive ratings, with 48.1% and 34.7% of respondents either "somewhat" or "very" likely to use. Web-based resources scored well, but also had a strong "not likely" score of 35.7%. This may be influenced by either computer literacy rates or limited broadband internet access in rural areas.

74. Approximately 53.95% of respondents reported they were "not likely" to attend conferences, an even higher percentage than the 37.9% that indicated they were not likely to use an attorney.

Usefulness of Legal Assistance or Educational Programming				
Issue	Very Useful and (%)	Somewhat Useful and (%)	Not at all Useful and (%)	I'm Not Sure and (%)
Passing on the Farm	297 (62%)	123 (26%)	46 (10%)	15 (3%)
Energy	255 (53%)	169 (35%)	44 (9%)	16 (3%)
Federal Programs	221 (46%)	200 (40%)	50 (10%)	11 (2%)
Natural Disaster Preparedness	204 (42%)	194 (40%)	69 (14%)	16 (3%)
Insurance	187 (39%)	225 (47%)	50 (10%)	20 (4%)
Taxation	169 (35%)	211 (44%)	73 (15%)	28 (6%)
Structuring a Farm Business	147 (31%)	192 (40%)	101 (21%)	38 (8%)
Marketing	137 (28%)	222 (46%)	91 (19%)	31 (6%)
Business Planning	131 (27%)	213 (44%)	107 (22%)	29 (6%)
Negotiation	97 (20%)	222 (46%)	118 (25%)	41 (9%)
Debt	55 (12%)	147 (31%)	228 (48%)	47 (10%)

The strong interest in educational programming or legal services relating to passing on the farm indicates that legal aid seminars and written materials on business success and estate planning would benefit the agricultural community. To the extent these services overlap with “structuring a farm business,” there may be opportunities for the practicing bar to engage additional farmer-clients. As noted previously,<sup>75</sup> there is a positive, statistically significant correlation between the farmers’ relative importance of this issue and the likelihood to actually retain counsel. In fact, this was the strongest correlation reported in the survey. Moreover, respondents reported relatively high satisfaction rates for their engagement of counsel to deal with these issues (95% satisfaction).

Demand for educational programming or legal services related to energy, already the second-highest issue identified in the survey data, should increase as the federal government implements programs to encourage farmers to commit more resources to wind farms, biofuels and other renewable energy sources, and carbon sequestration activities under proposed cap and trade schemes.<sup>76</sup> On the other hand, reported demand for programs related to “federal programs” might have been influenced by the news events at the time of the survey and focus groups. Specifically, during the survey process, legislative wrangling over the 2007 Farm Bill engendered significant news coverage in both the popular press and farm trade jour-

75. See *supra* n. 66 (discussing positive correlations between relative importance of particular legal issues and likelihood of retaining legal counsel).

76. For example, President Obama promised to double the production of alternative energy in three years. See *Time*, *Full Remarks of Obama's Stimulus Speech*, <http://thepage.time.com/full-remarks-of-obamas-stimulus-speech/> (updated Jan. 8, 2009).

nals.<sup>77</sup> This uncertainty might have increased the reported desire for legal education and services.

Finally, the legal issues respondents identified as most important in later segments of the survey differed slightly from the legal services and educational programming they identified as most useful in the survey's initial question. For example, respondents identified taxation as the second most important legal issue (10.38% of respondents listed it as one of their top three issues) but did not consider educational programming or legal services related to taxation to be especially useful (only 35% listing education or legal services as "very useful"). This difference indicates that while some issues, such as taxation, are a priority to the farm operation, educational programming and legal services might not be particularly useful, perhaps because the issue is not new or other sources already provide necessary information or professional services. When considering the relative importance of a legal issue with an unmet need (as indicated by the degree of usefulness of educational programming or legal services), federal programs and energy provide the most significant opportunity for practitioners and educators.

#### IV. SUMMARY AND CONCLUSION

The results of this study provide a wealth of information regarding the legal issues faced by Illinois farmers and how to better serve this vast community via legal services and educational programming. The practicing bar, legal aid organizations, regulatory agencies, and legislators should review this information and support additional studies to provide better, and more tailored services, for Illinois farmers in the future. Summary highlights of the survey follow.

Respondents perceived that legal services or law-related educational programs would be needed in the future for the following topics, listed in order from greatest to least needed: (1) passing on the farm, including tax consequences and Medicaid/long-term-care planning; (2) dealing with energy-related issues, including government-supported renewable energy (ethanol, wind, other community-based energy sources); (3) accessing federal programs, e.g., loans, cost share for conservation, farm program payments, on-farm research grants; (4) natural-disaster related topics, e.g., crop insurance and crop disaster assistance, unemployment assistance; (5) managing and insuring risk, including liability risks for farm visitors, employees, customers, and trespassers; (6) tax matters; (7) marketing and diversification;

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77. See e.g. Dan Morgan, *On the Eve of Vote, Farm Bill Draws Threat of a Veto*, Wash. Post A6 (July 26, 2007); Mike Monson, *Durbin Says Farm-Bill Effort isn't Enough*, Champaign, Ill. News-Gaz. A3 (July 1, 2008).

and (8) structuring a farm business. Further, survey respondents noted the following four topics as very important to their farming operations *and* most likely to require legal services within the next year: tax matters, structuring a farm business, energy, and farmland leases.

The survey results also provided information about the respondents' past experiences with attorneys. Respondents identified the following topics, listed in descending order of frequency, in which they previously had used an attorney: divorce, structuring a farm business, land use, energy, debt, employing workers, tax matters, and federal programs. Respondents reported the following levels of satisfaction with the services they received from attorneys: structuring a farm business (95%); tax matters (88%); land use (83%); energy (80%); debt (67%); federal programs (67%); and divorce (58%). An interesting point of note is that the area of greatest satisfaction with attorney services, structuring a farm business, was the same area where the respondents perceived the least future need—perhaps because once established, farmers perceived little need for revision.

As noted at the outset, the motivation for this program was to identify the legal needs of family farmers. The initial step of determining who is a "family farmer" and how this group's needs may be different from other types of farming enterprises was moot as 91% of respondents, across all demographic levels, identified themselves as family farmers.<sup>78</sup> Therefore, attempting to segregate the legal needs of family farmers may not be necessary as the most pressing legal issues crossed all demographic categories. Accordingly, this research identified the legal needs of farmers in general and may have broad applicability across state boundaries. Of course, further research is necessary before statistically significant conclusions may be drawn for other state populations. It is the authors' hope that this research project serves as a point of departure for further investigation of these important issues, both in other states and at the national level.

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78. See *supra* nn. 36–37 and accompanying text.

